

**DRAFT MINUTES
PAPILLION PLANNING COMMISSION MEETING
JANUARY 30, 2019**

The Papillion Planning Commission met in open session at the Papillion City Hall Council Chambers on Wednesday, January 30, 2019 at 7:02 PM. Vice Chairman John E. Robinson III called the meeting to order. Planning Assistant Andrea Blevins called the roll. Planning Commission members present were Howard Carson, Leanne Sotak, Judy Sunde, and Wayne Wilson. David Barker, Rebecca Hoch, Raymond Keller Jr., Jim Masters, and Herb Thompson were absent. Planning Director Mark Stursma, Assistant City Attorney Amber Rupiper, Assistant Planning Director Travis Gibbons, City Planner Michelle Romeo, and Staff Engineer Derek Goff were also present.

Vice Chairman Robinson III led those present in the Pledge of Allegiance.

Notice of the meeting was given in advance by publication in the Papillion Times on January 16, 2019. A copy of proof of publication is on file at the office of the City Clerk.

Vice Chairman Robinson III announced that a copy of the Open Meetings Act is posted in the City Council Chambers.

Approval of Agenda

Motion was made by Mr. Carson, seconded by Ms. Sotak, to approve the agenda as presented. Roll call: Five yeas, no nays. Motion carried.

Approval of the Planning Commission Minutes

Motion was made by Mr. Carson, seconded by Mr. Wilson, to approve the November 28, 2018 minutes. Roll Call: Five yeas, no nays. Motion carried.

FINAL PLATS

Final Plat – A Final Plat for the property legally described as Tax Lot 20E, the N 10' of the E1/2 of Tax Lot 21, and Tax Lot 20C, Section 27, T14N, R12e of the 6th P.M., Sarpy County, NE, generally located at 830 S Madison St and 831 S Harrison St. The applicants are Ashley and Jacob Miller. (Miller's Paradise) **FP-18-0010**

Vice Chairman Robinson III noted that discussion and consideration of this item would occur after the Motion and Vote for the Miller's Paradise Preliminary Plat.

Upon completion of the Motion and Vote on the Miller's Paradise Preliminary Plat, Vice Chairman Robinson III called for consideration of the Miller's Paradise Final Plat.

Ashley Miller, 830 S Madison Street, stepped forward as the applicant and offered to address any questions or concerns of the Commission. She noted that her comments from the Preliminary Plat carry over to the Final Plat application.

Vice Chairman Robinson III called for discussion amongst the Commission.

Mr. Carson inquired about the chosen plat name. Mrs. Miller summarized how her husband chose the name.

With no further discussion, **Motion** was made by Mr. Carson, seconded by Mr. Wilson, to recommend approval of the Miller's Paradise Final Plat (FP-18-0010) because it is generally consistent with the Comprehensive Plan, compatible with adjacent uses, and compliant with Zoning and Subdivision regulations, contingent upon the resolution of staff comments. Roll Call: Five yeas, no nays. Motion carried.

PUBLIC HEARINGS

One & Six Year Road Plan – To consider the One & Six Year Road Plan for the City of Papillion. The applicant is the City of Papillion. **MISC-19-0001**

Vice Chairman Robinson III opened the public hearing.

Public Works Administrative Manager and Development Coordinator Jennifer Roesler, 9909 Portal Road, stepped forward to represent the applicant. She noted that the plan must be approved annually per the Nebraska Department of Transportation (NDOT).

Vice Chairman Robinson III called for proponents and opponents. Seeing no further public input, Vice Chairman Robinson III closed the public hearing and called for Commission Discussion.

Mr. Carson stated that there were additional projects not listed on the road plan and offered his support.

With no further discussion, **Motion** was made by Mr. Carson, seconded by Ms. Sotak, to recommend approval of the One & Six Year Road Plan (MISC-19-0001) based on consistency with the Comprehensive Plan. Roll Call: Five yeas, no nays. Motion carried.

Special Use Permit – A Special Use Permit to allow Commercial Recreation (Controlled Impact) as a permitted use on the property legally described as Tax Lot A1B1A, A1B1C, & A1B1C, all located in Section 23, T14N, R12E of the 6th P.M., Sarpy County, NE, generally located at 841 Tara Plz. The applicant is Karen's Fireside, Inc. (Karen's Fireside) **SUP-18-0009**

Vice Chairman Robinson III opened the public hearing.

Julie Maben, 1802 Walnut Creek Drive, stepped forward as the applicant and summarized that she recently sold the former location of Karen's Fireside to a childcare center, and would be moving to a smaller venue at Tara Plaza.

Vice Chairman Robinson III called for proponents and opponents. Seeing no further public input, Vice Chairman Robinson III closed the public hearing and called for Commission Discussion.

Mr. Carson asked for clarification of the location. Ms. Maben noted that 841 Tara Plaza is north of the Grecian Gyros restaurant that she also owns. Mr. Carson asked whether Grecian Gyros and Karen's Fireside would share any space. Ms. Maben noted that there may be opportunities for Grecian Gyros to cater events at Karen's Fireside; however, the businesses would operate independently.

Mr. Carson asked for clarification on the types of gatherings anticipated at this location. Ms. Maben noted that she hosts several civic organizations on a regular basis, as well as parties, dances, and wedding receptions.

Mr. Carson asked about the size of the venue. Ms. Maben noted that the space was approximately 2,800 square feet in size and would accommodate up to 100 guests.

With no further discussion, **Motion** was made by Mr. Carson, seconded by Ms. Sunde, to recommend approval of the Karen's Fireside Special Use Permit (SUP-18-0009) because the proposed use is generally consistent with the zoning, and the proposed land use is generally compatible with the surrounding uses, contingent upon the resolution of staff comments. Roll Call: Five yeas, no nays. Motion carried.

Change of Zone – A change of Zone from LC Limited Commercial to CC Community Commercial for the property legally described as Lot 4, Summerfield 2nd Addition, generally located at 780 Pinnacle Dr. The applicant is Jarrod Reece. (St. Martha's Episcopal Church) **CZ-18-0013**

Vice Chairman Robinson III opened the public hearing.

Jarrod Reece, 780 Pinnacle Drive, stepped forward to represent the applicant. He explained that the church is requesting the Change of Zone to allow for addition signage on the lot.

Vice Chairman Robinson III called for proponents and opponents. Seeing no further public input, Vice Chairman Robinson III closed the public hearing and called for Commission Discussion.

Mr. Carson asked whether the church would need to come back before the Planning Commission and City Council if additional modifications were to be made to the property. Mr. Reece answered in the affirmative. Mr. Carson offered his support.

With no further discussion, **Motion** was made by Mr. Carson, seconded by Mr. Wilson, to recommend approval of St. Martha's Episcopal Church Change of Zone (CZ-18-0013) because the existing land use is generally consistent with the proposed zoning, the proposed zoning district is generally compatible with the surrounding uses, and the proposed zoning district is consistent with the zoning of the Summerfield 2nd Addition lots to the south and the underlying zoning of the Settlers Creek Mixed Use District to the east, contingent upon the resolution of staff comments. Roll Call: Five yeas, no nays. Motion carried.

Preliminary Plat – A Preliminary Plat for the property legally described as Tax Lot 20E, the N 10' of the E1/2 of Tax Lot 21, and Tax Lot 20C, Section 27, T14N, R12E of the 6th P.M., Sarpy County, NE, generally located at 830 S Madison St and 831 S Harrison St. The applicants are Ashley and Jacob Miller. (Miller's Paradise) **PP-18-0011**

Vice Chairman Robinson III opened the public hearing.

Ashley Miller, 830 S Madison Street, stepped forward as the applicant and summarized that she purchased approximately eight feet of the property at 831 S Harrison Street in order to make a proposed garage addition compliant with the required setbacks.

Vice Chairman Robinson III called for proponents and opponents. Seeing no further public input, Vice Chairman Robinson III closed the public hearing and called for Commission Discussion.

Mr. Carson asked whether the Millers planned to tear down the existing garage. Mrs. Miller stated that she was unsure because she is now considering selling the home.

With no further discussion, **Motion** was made by Mr. Carson, seconded by Ms. Sunde, to recommend approval of the Miller's Paradise Preliminary Plat (PP-18-0011) because it is generally consistent with the Comprehensive Plan, compatible with adjacent uses, and compliant with Zoning and Subdivision Regulations, contingent upon the resolution of staff comments. Roll Call: Five yeas, no nays. Motion carried.

Preliminary Plat – A Preliminary Plat for the property legally described as Tax Lot 3A1A1, located in Section 2, T13N, R11E of the 6th P.M., Sarpy County, NE, generally located in the NW corner of 150th St & Capehart Rd. The applicant is Raven Northbrook, LLC. (Sarpy County Power Park West Addition) **PP-18-0012**

Vice Chairman Robinson III opened the public hearing.

David Madden, 1601 Dodge Street, Suite 3700 (Omaha), stepped forward to represent the applicant. He noted that the applicant seeks to add the property in question to the current site for Sarpy County Power Park West. Mr. Madden explained that the applicant is also requesting an amendment to the Comprehensive Plan to allow for the realignment of S 150th Street around the subject property. He noted that there are significant safety and security advantages gained by the applicant by allowing the realignment of the road to create a contiguous campus for the Facebook data center.

Mr. Madden assured the Commission that the scope of the amendment to the Mixed Use Development Agreement would simply be to add the subject property and that the established site regulators would remain the same.

Vice Chairman Robinson III called for proponents and opponents.

Executive Director of Sarpy County Economic Development Corporation Andrew Rainbolt, 808 Conagra Drive, Suite 400 (Omaha), stepped forward to offer support for the project.

Kevin Zach, 12370 S 150th Street, stepped forward to offer support for the project. He noted that Facebook has been a good neighbor thus far. In addition, he anticipates that the use will be less intrusive than other possible uses for the site once fully constructed.

Jim Amerine, 15512 Capehart Road, stepped forward to express concerns about access to his farmland from the realigned S 150th Street.

T.J. Heinert, 15306 Capehart Road, stepped forward to express concerns regarding the proposed realignment of S 150th Street. He noted that the road being much closer to his property could be a detriment. He further stated that Facebook is also interested in land to the south of Capehart Road in Springfield's extraterritorial jurisdiction, and he suspects that the developer may also attempt to vacate Capehart Road.

Seeing no further public input, Vice Chairman Robinson III closed the public hearing and called for Commission Discussion.

Mr. Carson asked staff to address the public concerns regarding access to the newly realigned S 150th Street. Mr. Stursma noted that the developer and the City are still formulating solutions

regarding access for adjacent properties. He explained that the Subdivision Agreement Amendment would include language that allows streets or driveways to connect to the road. Mr. Stursma added that he is not sure whether the grades along the road will allow for farm access.

Project Engineer Eric Galley, 2111 S 67th Street, Suite 200 (Omaha), confirmed that language is being drafted to allow road and driveway access from the west. He added that he was unaware of any discussion regarding farm access.

Mr. Carson asked the development team to address Mr. Heinert's concerns. Mr. Madden explained that there would likely be a landscape buffer between the newly aligned road and Mr. Heinert's property to help mitigate the impact of the road being moved closer to his property. He reiterated that the Subdivision Agreement Amendment would contractually allow properties to the west to connect to the road once those properties develop or redevelop.

Mr. Carson asked whether the development team was confident that it could address the contingencies listed in the Planning Commission Staff Report. Mr. Madden answered in the affirmative.

With no further discussion, **Motion** was made by Mr. Carson, seconded by Ms. Sunde, to recommend approval of the Sarpy County Power Park West Addition Preliminary Plat (PP-18-0012) because it is generally consistent with the Comprehensive Plan should City Council approved the proposed Comprehensive Plan Amendment, compatible with adjacent uses, and compliant with Zoning and Subdivision Regulations, contingent upon the resolution of staff comments. Roll Call: Five yeas, no nays. Motion carried.

Change of Zone – A Change of Zone from AG Agricultural to MU Mixed Use for the property legally described as Tax Lot 3A1A1, located in Section 2, T13N, R11E of the 6th P.M., Sarpy County, NE, generally located in the NW corner of 150th St & Capehart Rd. The applicant is Raven Northbrook, LLC. (Sarpy County Power Park West Addition) **CZ-18-0014**

Vice Chairman Robinson III opened the public hearing.

David Madden, 1601 Dodge Street, Suite 3070 (Omaha), stepped forward to represent the applicant.

Vice Chairman Robinson III called for proponents and opponents. Seeing no further public input, Vice Chairman Robinson III closed the public hearing and called for Commission Discussion.

Mr. Carson asked for clarification regarding the original scope of the Facebook project. Mr. Madden confirmed that Raven Northbrook, LLC purchased and platted the quarter sections on the northeast and northwest corners of HWY 50 and Capehart Road.

Mr. Carson inquired as to where the Springfield extraterritorial jurisdiction begins. Mr. Madden noted that the centerline of Capehart Road is the boundary at this location.

With no further discussion, **Motion** was made by Mr. Carson, seconded by Ms. Sunde, to recommend approval of the Sarpy County Power Park West Addition Change of Zone (CZ-18-0014) because it is generally consistent with the Comprehensive Plan should City Council approved the proposed Comprehensive Plan Amendment, compatible with adjacent uses, and compliant with Zoning and Subdivision Regulations, contingent upon the resolution of staff comments. Roll Call: Five yeas, no nays. Motion carried.

Comprehensive Plan Amendment – A Comprehensive Plan Amendment for the property legally described as Tax Lot 3A1A1, located in Section 2, T13N, R11E of the 6th P.M., Sarpy County, NE, generally located in the NW corner of 150th St & Capehart Rd. The applicant is Raven Northbrook, LLC. (Sarpy County Power Park West Addition) **CPA-19-0001**

Vice Chairman Robinson III opened the public hearing.

David Madden, 1601 Dodge Street, Suite 3070 (Omaha), stepped forward to represent the applicant.

Vice Chairman Robinson III called for proponents and opponents.

T.J. Heinert, 15306 Capehart Road, stepped forward to express opposition to the proposed realignment of S 150th Street.

Seeing no further public input, Vice Chairman Robinson III closed the public hearing and called for Commission Discussion.

Ms. Sunde asked why a Comprehensive Plan Amendment was necessary for this project. Mr. Stursma explained that this proposal changes the anticipated road network by realigning a major roadway; therefore, the new alignment must be noted on the Future Land Use Map.

Mr. Carson noted that he did not believe that S 150th Street is a main through street because it ends at Schram Road and Fairview Road. He stated that S 156th Street would likely be the main through street in the future.

With no further discussion, **Motion** was made by Mr. Carson, seconded by Mr. Wilson, to recommend approval of the Sarpy County Power Park West Addition Comprehensive Plan Amendment (CPA-19-0001) because it is generally consistent with the Comprehensive Plan should City Council approved the proposed Comprehensive Plan Amendment, compatible with adjacent uses, and compliant with Zoning and Subdivision Regulations, contingent upon the resolution of staff comments. Roll Call: Five yeas, no nays. Motion carried.

Mixed Use Development Agreement Amendment – A Mixed Use Development Agreement Amendment for the property legally described as Tax Lot 3A1A1, located in Section 2, T13N, R11E of the 6th P.M., Sarpy County, NE, generally located in the NW corner of 150th St & Capehart Rd. The applicant is Raven Northbrook, LLC. (Sarpy County Power Park West Addition) **MISC-19-0002**

Vice Chairman Robinson III opened the public hearing.

David Madden, 1601 Dodge Street, Suite 3070 (Omaha), stepped forward to represent the applicant.

Vice Chairman Robinson III called for proponents and opponents. Seeing no further public input, Vice Chairman Robinson III closed the public hearing and called for Commission Discussion.

Mr. Wilson asked whether the perimeter security fence would be shielded with landscaping. Project Engineer Eric Galley, 2111 S 67th Street, Suite 200 (Omaha), stated that the landscaping for this portion of the project is being designed but will have to abide by the regulators within the

Sarpy County Power Park West Mixed Use Development Agreement. He anticipated that the fencing would likely be wrought iron within streetscape buffers.

With no further discussion, **Motion** was made by Ms. Sunde, seconded by Mr. Wilson, to recommend approval of the Sarpy County Power Park West Addition Mixed Use Development Agreement Amendment (MISC-19-0002) because it is generally consistent with the Comprehensive Plan should City Council approved the proposed Comprehensive Plan Amendment, compatible with adjacent uses, and compliant with Zoning and Subdivision Regulations, contingent upon the resolution of staff comments. Roll Call: Five yeas, no nays. Motion carried.

Ordinance No. 1832 – Small Wireless Facility Amendment – An ordinance to amend Section 205-270 and Section 205-272 both of Article XXXVIII (Wireless Telecommunications Facilities) of Chapter 205 of the Papillion Municipal Code, having to do with Small Wireless Facilities and Small Wireless Facility Support Poles. The applicant is the City of Papillion. (Small Wireless Facility Amendment) **TC-19-0001**

Vice Chairman Robinson III opened the public hearing.

Planning Director Mark Stursma, 122 E 3rd Street, stepped forward to represent the applicant. He explained that this ordinance amendment is meant to bring the City's ordinance into compliance with new FCC regulations regarding the time limits allowed for the approval of permits for small wireless facilities. Mr. Stursma displayed examples of small wireless facilities and offered a brief overview of their form and function. He added that the current process to approve a new wireless facility requires a Special Use Permit, and that process is not timely enough to abide by the FCC guidelines.

Vice Chairman Robinson III called for proponents and opponents. Seeing no further public input, Vice Chairman Robinson III closed the public hearing and called for Commission Discussion.

Mr. Carson asked about the function of small wireless facilities. Mr. Stursma notes that small wireless facilities are meant to function similarly to a wireless telecommunications tower; however, small wireless facilities utilize a network of many small antennas placed close together.

Mr. Carson asked whether the City would be compensated by telecommunications companies for the use of public right-of-way. Mr. Stursma noted that there is an opportunity for franchise agreements for the use of public right-of-way; however, the FCC places limits on how much a municipality may charge. He noted that the new regulations are an industry wide effort to make the implementation of small wireless facilities a simpler process.

Mr. Carson asked who owns the light poles where small wireless facilities may be placed. Mr. Stursma noted that OPPD owns the light poles, but the City owns the right-of-way. He added that the City currently leases antenna space on its water towers to telecommunications companies.

Mr. Carson asked whether these changes in process would speed up the approval process for small wireless facilities. Mr. Stursma explained that this change would require approval for a small wireless facility on an existing pole within 60 days of application, and approval for a new pole within 90 days of application. He noted that this is similar to the process for other types of utilities located in the public right-of-way.

Mr. Carson asked whether the City has received any applications for small wireless facilities. Assistant Planning Director Travis Gibbons explained that the City had not yet received any such application; however, he anticipates that they will soon be arriving.

Assistant City Attorney Amber Rupiper added that the fees collected for franchise agreements to occupy public right-of-way are not a revenue source, but instead are meant to cover the cost of staff time and other City resources utilized in the installation of such facilities. She added that regulatory access also encourages companies to utilize public right-of-way appropriately.

Ms. Sunde asked whether the installation of small wireless facilities would help bring 5G to the area. Mr. Gibbons responded in the affirmative.

With no further discussion, **Motion** was made by Ms. Sotak, seconded by Mr. Wilson to recommend approval of Ordinance No. 1832 – Small Wireless Facility Amendment (TC-19-0001). Roll Call: Five yeas, no nays. Motion carried.

Ordinance No. 1831 – Mixed Use District Amendment – An ordinance to amend Article XXII (MU Mixed Use District) of Chapter 205 of the Papillion Municipal Code having to do with Mixed Use District. The applicant is the City of Papillion. (Mixed Use District Amendment) **TC-19-0002** Vice Chairman Robinson III opened the public hearing.

Planning Director Mark Stursma, 122 E 3rd Street, stepped forward to represent the applicant. He explained that this amendment is meant to bring the zoning regulations in compliance with Neb. Rev. Stat. § 19-904 and current Planning Department practices. He explained that Neb. Rev. Stat. § 19-904 requires public hearings for changes to regulations, and Mixed Use Agreements and amendments thereto affect site regulators. He noted that the current ordinance is not wrong in not requiring a public hearing; however, holding a public hearing for Mixed Use Agreements is best practice and adds confidence to the process.

Vice Chairman Robinson III called for proponents and opponents. Seeing no further public input, Vice Chairman Robinson III closed the public hearing and called for Commission Discussion.

Mr. Wilson asked how this change would affect developers. Mr. Stursma explained that this new process does not affect the timeline for approvals; however, it may require that additional information be provided up front. Ms. Rupiper reiterated that this process should provide developers more confidence in the legality and defensibility of the process.

Ms. Sunde asked whether this amendment was intended to come into compliance with state law. Mr. Stursma noted that the intention is to codify best practices that comply with state law.

With no further discussion, **Motion** was made by Mr. Carson, seconded by Ms. Sunde to recommend approval of Ordinance No. 1831 – Mixed Use District Amendment (TC-19-0002) because it is consistent with Neb. Rev. Stat. § 19-904, consistent with current Planning Department practices, and consistent with the vision and goals of the Comprehensive Plan. Roll Call: Five yeas, no nays. Motion carried.

OTHER BUSINESS

Mr. Stursma discussed the upcoming NPZA annual conference and the Comprehensive Plan update.

With no further business to come before the Commission, **Motion** was made by Ms. Sunde, seconded by Mr. Carson, to adjourn. The meeting adjourned by unanimous consent at 8:19 PM.

CITY OF PApILLION

John E. Robinson III, Vice Chairman